

REMARKS

A. Status of Claims

Claims 1-4, 6 and 11 have been amended without prejudice. Support for the amendments can be found, e.g., in paragraphs [00105], [0040], [0044], and [0047] of the specification as filed.

New claims 74-90 have been added. Support for the new claims 74 and 77 can be found, e.g., in paragraph [0040] of the specification as filed. Support for new claims 75 and 78 can be found, e.g., in paragraph [0028] of the specification as filed. Support for new claims 76 and 79 can be found, e.g., in paragraph [00105] of the specification as filed. Support for new claims 80 to 82 can be found, e.g., in paragraphs [0090] to [0096] of the specification as filed. Support for new claim 83 can be found, e.g., in paragraph [0096] of the specification as filed.

Claims 5, 7-10, 12-22, 46-56, and 60 have been cancelled without prejudice.

Claims 23-45, 57-59, and 61-73 were previously cancelled without prejudice in response to the restriction requirement.

Applicant submits that claims 3, 6 and 74-88 are encompassed by the elected invention.

Applicant further submits that no new matter has been added by virtue of this amendment.

B. Claim Rejections- 35 U.S.C. § 112

Claims 3 and 9 were rejected under 35 U.S.C. § 112, second paragraph, for reciting that the scent is undetectable to a human. The Examiner stated that “the claim does not indicate exactly how the scent would be undetectable.” *Office Action, page 2.*

The rejection is respectfully traversed.

However, to advance prosecution, claim 9 has been cancelled without prejudice, and claim 3 has been amended without prejudice to delete the language objected to by the Examiner.

In view of the amended claims, withdrawal of this rejection is respectfully requested.

C. Claim Rejections- 35 U.S.C. § 102(b)

Claims 3, 6-9, 13-16, 19-21, and 60 were rejected under 35 U.S.C. §102(b) over U.S. patent No. 5,238,915 to Fuwa et al. ("the Fuwa patent").

The rejection is respectfully traversed.

Claims 7-9, 13-16, 19-21, and 60 have been cancelled without prejudice.

Independent claims 3 and 6 have been amended without prejudice to recite a step of "associating the scent or scent profile with the identity or source of the pharmaceutical dosage form."

The Fuwa patent is directed to an aromatic composition which comprises a release-controlled perfume. *Column 1, lines 33-34*. The aromatic composition is "utilizable in ... aromatherapy and also to a control method of aroma." *Column 1, lines 7-9*. The Fuwa patent does not teach or suggest associating an imparted scent or scent profile with the identity or source of the pharmaceutical dosage form product, so that identity and/or source of the pharmaceutical dosage form can be determined from the imparted scent, as recited in independent claims 3 and 6.

In response to the Examiner's reliance on column 6, lines 16-29, of the Fuwa patent to show that "aromatics ... are used for identification such as narcotic aromatic," it is respectfully submitted that the paragraph relied upon by the Examiner recites:

Moreover, if perfumes which influence the physiological mechanism are contained in the aromatic composition and the

release of these perfumes is controlled as set out above thereby causing aromas having mutually contradictory or synergistic actions to be released in relation to the time, such a composition can be applied to the medical treatment of psychosomatic disorder and aromatherapy. For instance, such aromatic compositions may be those which comprise a combination of an antihypnotic perfume and a narcotic perfume or a combination of an appetizing perfume and an anorexigenic perfume. These aromatic composition can control the physiological mechanism by mean of aromas.

Column 6, lines 16-29.

It is respectfully submitted that “narcotic” in this passage refers to the intended effect of the active agent (i.e., perfume), and not the identity (e.g., the name or the chemical formula of the compound) and/or the source (e.g., a location from which it came from). Therefore, this passage does not teach using a scent to determine the identity and the source of the aromatic composition.

Withdrawal of the rejection is respectfully requested.

D. Claim Rejections- 35 U.S.C. § 103(a)

Claims 3, 6-10, 13-22, 46, 56, and 60 were rejected under 35 U.S.C. §103(a) over the Fuwa patent.

The rejection is respectfully traversed.

Claims 7-10, 13-22, 46, 56, and 60 have been cancelled without prejudice. Independent claims 3 and 6 have been amended without prejudice to recite a step of “associating the scent or scent profile with the identity or source of the pharmaceutical dosage form.”

The Fuwa patent does not teach or suggest imparting a scent to a pharmaceutical dosage form, and then associating the imparted scent with the identity of the pharmaceutical dosage form and/or the source of the pharmaceutical dosage form, so that identity and/or the source of

the pharmaceutical dosage form can be determined from the imparted scent, as recited in independent claims 3 and 6.


With further regard to claims 74, 77 and 80, it is respectfully submitted that the Fuwa patent does not teach or suggest an amount or concentration of a scent or scent profile “which is below the human olfactory threshold of the scent” as recited in this claims. Applicant respectfully notes that in order for the aroma in the Fuwa patent to be effective, it would have to be released in an amount that would be perceived by a human subject (i.e., in an amount that is **above** the human olfactory threshold of the aroma). Therefore, the Fuwa patent does not suggest an amount or concentration of a scent or scent profile “which is **below** the human olfactory threshold of the scent.” In fact, such modification would render the Fuwa patent unsuitable for its intended purpose. (i.e., aromatherapy).

In view of the above remarks, withdrawal of the rejection is respectfully requested.

CONCLUSION

An early and favorable action on the merits is earnestly requested. According to currently recommended Patent Office policy, the Examiner is specifically authorized to contact the undersigned in the event that a telephonic interview will advance the prosecution of this application.

Respectfully submitted,
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